

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

Deanna M. MacKay,

**Plaintiff**

Judge Robert N. Lane, et al.

## Defendants

Case No.: 2:24-cv-01200-JAD-NJK

# **Order Dismissing Action for Failure to File an Amended Complaint**

Pro se plaintiff Deanna M. MacKay brings this action against various attorneys and state-judges for events that occurred during a state-court criminal proceeding.<sup>1</sup> On December 24, the magistrate judge dismissed MacKay’s claims with leave to amend by January 10, and warned her that this case would be dismissed and closed if she failed to file an amended complaint by the deadline.<sup>2</sup> MacKay missed that deadline, so the magistrate judge recommended dismissal.<sup>3</sup> MacKay responded with a request to extend her deadline for comment.<sup>4</sup> I granted that request, extended her deadline to February 24, 2025, and again advised her that failure to file an amended complaint by that date would result in dismissal of her case. MacKay neither filed an amended complaint by that deadline nor moved for an extension of time to do so.

<sup>1</sup> See ECF No. 3.

<sup>2</sup> ECF No. 6 at 4.

<sup>3</sup> ECF No. 7.

23 |<sup>4</sup> ECF No. 8.

5 ECF No. 9.

1 District courts have the inherent power to control their dockets and “[i]n the exercise of  
 2 that power[,] they may impose sanctions including, where appropriate . . . dismissal” of a case.<sup>6</sup>  
 3 A court may dismiss an action based on a party’s failure to obey a court order.<sup>7</sup> In determining  
 4 whether to dismiss an action on one of these grounds, the court must consider: (1) the public’s  
 5 interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the  
 6 risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their  
 7 merits; and (5) the availability of less drastic alternatives.<sup>8</sup>

8 The first two factors, the public’s interest in expeditiously resolving this litigation and the  
 9 court’s interest in managing its docket, weigh in favor of dismissal. The third factor, risk of  
 10 prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises  
 11 from the occurrence of unreasonable delay in filing a pleading ordered by the court or  
 12 prosecuting an action.<sup>9</sup> The fourth factor—the public policy favoring disposition of cases on  
 13 their merits—is greatly outweighed by the factors favoring dismissal.

14 The fifth factor requires the court to consider whether less drastic alternatives can be used  
 15 to correct the party’s failure that brought about the court’s need to consider dismissal.<sup>10</sup> Courts  
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17<sup>6</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

18<sup>7</sup> See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply  
 19 with an order requiring amendment of complaint); *Malone v. U.S. Postal Serv.*, 833 F.2d 128,  
 130 (9th Cir. 1987) (dismissal for failure to comply with court order).

20<sup>8</sup> *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260–61.

21<sup>9</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

22<sup>10</sup> *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less  
 23 drastic alternatives *before* the party has disobeyed a court order does not satisfy this factor);  
*accord Pagtalunan v. Galaza*, 291 F.3d 639, 543 & n.4 (9th Cir. 2022) (explaining that “the  
 persuasive force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic  
 alternatives prior to disobedience of the court’s order as satisfying this element,” i.e., like the  
 “initial granting of leave to amend coupled with the warning of dismissal for failure to  
 comply[,]” have been “eroded” by *Yourish*).

1 “need not exhaust every sanction short of dismissal before finally dismissing a case, but must  
2 explore possible and meaningful alternatives.”<sup>11</sup> Because this action cannot proceed until and  
3 unless MacKay files an amended complaint, the only alternative is to enter a third order setting  
4 another deadline. But the reality of repeating an ignored order is that it often only delays the  
5 inevitable and squanders the court’s finite resources along the way. The circumstances here do  
6 not indicate that this case will be an exception: this is the second time MacKay has failed to  
7 comply with a court-ordered deadline, and there is no indication that giving her additional time  
8 would produce a different result. Setting another deadline is not a meaningful alternative given  
9 these circumstances. So the fifth factor favors dismissal.

10 Having thoroughly weighed these dismissal factors, I find that they weigh in favor of  
11 dismissal. **IT IS THEREFORE ORDERED that this action is DISMISSED** without  
12 prejudice for failure to file an amended complaint in compliance with the court’s orders. **The**  
13 **Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS CASE.**  
14 If MacKay wishes to pursue her claims, she must file a complaint in a new case.

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17 U.S. District Judge Jennifer A. Dorsey  
18 April 10, 2025

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<sup>11</sup> *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986).